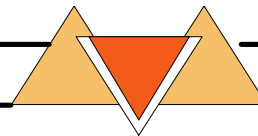


# Piedmont Triad Council of Governments



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Randall L. Billings, Executive Director

## MEMORANDUM

To: Environmental Management Commission

From: Randall L. Billings, Executive Director

Date: September 14, 2007

Subject: Comments on the proposed Jordan Lake Rules

These comments are submitted by the Piedmont Triad Council of Governments (PTCOG), a membership association of 45 local governments in multi-county planning region "G". Twenty of the 45 members of the PTCOG are directly impacted by the proposed rules. On June 20, 2007 the PTCOG Board of Delegates passed a resolution to formally oppose the proposed rules, a copy of which we submitted earlier. These comments serve as a detailed supplement to the action of the Board of Delegates.

The local government members of the PTCOG steadfastly support and adhere to the principle of environmental stewardship and accepting their responsibility for maintaining the environment. Local governments also have a duty and responsibility to represent the interests of their citizens who are ultimately the ones who will have the burden of paying higher taxes and utility bills associated with higher levels of environmental responsibility. Because local governments have direct responsibility and interaction with local taxpayers, they must therefore insure that the taxpayers' money is being spent for actions that are in the best interest of the public, are fiscally responsible and have the potential for success. It is the opinion of the PTCOG that the Jordan Lake Rules, as proposed, are not fiscally responsible and do not include the potential for success commensurate with their cost. These comments are based on that premise.

### Cost

Much consideration has been given to the cost of implementing the proposed rules. Based on the fiscal notes that accompany the rules, the cost of implementation is approximately \$750,000,000. Engineering estimates provided by public and private licensed engineers have concluded that the actual cost for existing development retrofit and new construction could push costs far higher.

Aside from costs that will be borne by NCDOT and the state supported universities, almost all of the cost to implement these rules will be the burden of local taxpayers. There is no provision in

the rules, unlike the Neuse and Tar/Pam rules, for the state to play a financial role in implementing and/or administering these rules.

### Sub-basins of the Jordan Lake

Because of the character of the Haw River sub-basin and the flow of the river, the rules should be amended to treat the Haw River and New Hope sub-basins differently.

The 20 local governments represented by the PTCOG that are affected by the Jordan Lake rules are in the Haw River sub-basin. This sub-basin is approximately three times larger in land area than the New Hope sub-basin but with about the same amount of population. The Haw River flows into the lake near the bottom and exits within approximately five days. In contrast, water from the New Hope arm has a retention period of approximately 417 days. Development in the New Hope arm is highly urbanized with almost all of the water consumption coming from that side of the lake.

### Adaptive Management

The proposed rules impose dramatic requirements and do not take an incremental approach to solving the problem. They would also impose astronomical costs on local taxpayers in hopes there will be an improvement in water quality.

The affected governments in our region propose that a more progressive, incremental approach be taken, including allowing Phase II stormwater regulations and other measures to have an effect.

For many years the PTCOG has been engaged in regional water quality initiatives with funding from the Clean Water Management Trust Fund, EPA 319 and 205(j) grants, EEP grants, PARTF grants and local funds. Through these grants the following activities have occurred:

1. Creation of “Stormwater Smart” a comprehensive public education programs that 17 Phase II communities jointly participate in.
2. Development of local watershed management plans.
3. Analysis of stream banks, development, vegetation, and buffers along the Haw River in Guilford, Alamance and Chatham Counties.
4. Trail layout for the Mountains-to-Sea Trail along the Haw River and its tributaries.
5. Data collection and analysis of the Haw River and Jordan Lake.
6. Construction of rain gardens in two cities within the basin.
7. Infrared photography of fecal coliform bacteria sources.

Much has been done on a regional basis to address improving water quality in the basin and much more is yet to be done. The region has been proactive in addressing these concerns and time needs to be given to determine whether what is being done is impacting water quality. The PTCOG is prepared to lead our local governments in pursuing creative and effective solutions to improve water quality and measure the results.

### The rules are based upon questionable science

Rules of this magnitude in cost and impact should be based on unquestionable science. That is not the case with the proposed rules. Even if it is accepted that chlorophyll a is a good indicator of water quality, reasonable scientific people cannot agree with the chlorophyll a data that was used to support these rules. Samples were not taken in every year, samples were taken during drought conditions, and some results were invalidated. Subsequent data collected by the Division of Water Quality, USGS and an independent lab employed by our own local governments, all have data that show while there are a few exceedances of the 40 ug/l standard, they are not statistically significant. The following are quotes from Tetra Tech, a consulting company used by the state, regarding the use of the chlorophyll a data in the Jordan Lake model.

*“Evaluation of uncertainty in the model is complicated by the presence of considerable analytical uncertainty in chlorophyll a measurements.” “This in turn suggests that better model performance cannot be attained without greatly enhanced monitoring data. In sum the Jordan Lake model as currently implemented is not a particularly good predictor of individual point measurements of chlorophyll a ...”*

#### More restrictive than any other rules ever issued

The Jordan Lake rules, as proposed, are the most restrictive water quality rules ever issued in North Carolina. It is arbitrary to impose such restrictive rules only on one watershed.

#### Retrofit of existing development

The PTCOG feels most strongly that this requirement should be removed altogether from the rules for the following reasons:

1. It is likely physically impossible and/or impractical to implement in densely developed urban areas.
2. It is enormously expensive.
3. It is not required in any other rules previously issued.

#### Wastewater treatment plant upgrades

If this part of the rules is implemented, consideration should be given for local governments, especially the smaller ones, to have time to phase in implementation. Many smaller local governments already have significant debt from plant upgrades and need time to plan for and pay for additional upgrades associated with these rules. Trading of limits should also be allowed so the larger local governments who go ahead and make plant improvements can include other local governments under their load limits.

#### Cost to new development

Cost estimates provided by private engineering firms are far greater than the amount projected in the fiscal notes. One estimate, which will be documented and provided under separate cover, predicts the cost of the rules to new development will exceed \$22,000,000 per year for Alamance and Guilford counties alone.

I appreciate your consideration of these comments. They reflect significant research and an effort to balance local government responsibilities for environmental stewardship and fiscal accountability.